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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,756	12/02/2003	Jonathan Cass	H310177CONUS	1807
28079	7590	09/27/2004	EXAMINER	
GOWLING, LAFLEUR HENDERSON LLP SUITE 560, 120 KING STREET WEST PO BOX 1045, LCD 1 HAMILTON, ON L8N 3R4 CANADA			MAGEE, CHRISTOPHER R	
			ART UNIT	PAPER NUMBER
			2653	
DATE MAILED: 09/27/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/724,756	CASS, JONATHAN	
	Examiner	Art Unit	
	Christopher R. Magee	2653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: On page 1, please remove "This is a continuation of U.S. Patent Application Nos. 09/735, 905, filed December 14, 2000" and insert the following: --This application is a continuation of U.S. Application No. 09/735, 905, filed December 14, 2000, now abandoned, which claims the benefit of U.S. Provisional Applications 60/171, 104, filed December 16, 1999 and 60/226, 898, filed August 23, 2000.-- See MPEP §201.11, pg. 200-67. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Donnell et al. (hereinafter O'Donnell) (US Des. 433,011) and Golden et al. (hereinafter Golden) (US 3,878,751) further in view of Reisch, "The Art of the Turntablist", *Stereophile*. September 1999. Vol. 22. No. 9, pages 1-3.

- Regarding claim 1, O'Donnell shows a disc jockey turntable with a swing arm and needle (Fig. 1).

O'Donnell does not disclose turntable record turntable record having multiple tracks having at least one scale of notes and/or series of chords of a predetermined musical key, the

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scale being diatonic, pentatonic, whole tone or one of the modes, the notes and/or chords on each track each lasting for a predetermined time with silence for a predetermined time between adjacent notes and/or chords and the predetermined time for which the notes and/or chords last on one track being different from the predetermined times for which the notes and/or chords last on the other tracks.

Golden teaches turntable record 16 having multiple tracks having at least one scale of notes and/or series of chords of a predetermined musical key, the scale being diatonic, pentatonic, whole tone or one of the modes (col. 3, lines 7-45; col. 4, lines 31-34), the notes and/or chords on each track each lasting for a predetermined time with silence for a predetermined time between adjacent notes and/or chords (col. 4, lines 58-63; see Figure 4), and the predetermined time for which the notes and/or chords last on one track being different from the predetermined times for which the notes and/or chords last on the other tracks (col. 8, lines 20-26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the disc jockey turntable of O'Donnell with a turntable record as taught by Golden.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to provide the disc jockey turntable of O'Donnell with a turntable record as taught by Golden because it is desirable to record information (i.e., music) on a turntable record so that it can be played back at a later time for entertainment purposes.

Further, Golden and O'Donnell do not show mounting the turntable record on the turntable and moving the swing arm to position the needle on an appropriate track and

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preventing the record from rotating by placing a hand thereon until production of a selected sound is desired.

With that in mind, Reisch discloses scratchers (i.e., disc jockeys) use their hands to stop, start, and rock the platter or LP at various speeds, to control the sound's attack and envelope emitting from the sound system ("The Art of the Turntablist", *Stereophile*, First paragraph, page 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the disc jockey turntable with a turntable record of O'Donnell and Golden in the method as taught by Reisch.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to provide the disc jockey turntable with a turntable record of O'Donnell and Golden in the method as taught by Reisch in order to use the turntable as a musical instrument (Reisch; Fourth paragraph, page 2).

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over O'Donnell et al. (hereinafter O'Donnell) (US Des. 433,011) in view of Golden et al. (hereinafter Golden) (US 3,878,751).

- Regarding claim 2, O'Donnell shows a disc jockey turntable with a swing arm and needle (Fig. 1).

O'Donnell does not disclose turntable record having multiple tracks having at least one scale of notes and/or series of chords of a predetermined musical key, the scale being diatonic, pentatonic, whole tone or one of the modes, the notes and/or chords on each

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track each lasting for a predetermined time with silence for a predetermined time between adjacent notes and/or chords and the predetermined time for which the notes and/or chords last on one track being different from the predetermined times for which the notes and/or chords last on the other tracks.

Golden teaches turntable record 16 having multiple tracks having at least one scale of notes and/or series of chords of a predetermined musical key, the scale being diatonic, pentatonic, whole tone or one of the modes (col. 3, lines 7-45; col. 4, lines 31-34), the notes and/or chords on each track each lasting for a predetermined time with silence for a predetermined time between adjacent notes and/or chords (col. 4, lines 58-63; see Figure 4), and the predetermined time for which the notes and/or chords last on one track being different from the predetermined times for which the notes and/or chords last on the other tracks (col. 8, lines 20-26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the disc jockey turntable of O'Donnell with a turntable record as taught by Golden.

The rationale is as follows: One of ordinary skill in the art at the time of the invention would have been motivated to provide the disc jockey turntable of O'Donnell with a turntable record as taught by Golden because it is desirable to record information (i.e., music) on a turntable record so that it can be played back at a later time for entertainment purposes.

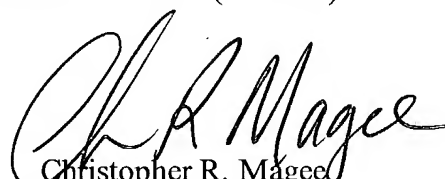
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Conclusion

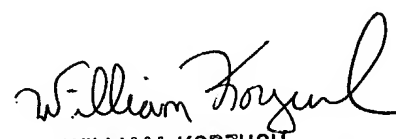
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Magee whose telephone number is (703) 605-4256. The examiner can normally be reached on M-F, 8: 00 am-5: 30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on (703) 305-6137. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Christopher R. Magee
Patent Examiner
Art Unit 2653

September 17, 2004


WILLIAM KORZUCH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800